

Minutes of the 21 December 2009
Special Meeting of the Yancey County Board of Commissioners
Held at 10:00 o'clock a.m. in the Commissioner's Meeting Room
Yancey County Courthouse, Burnsville, North Carolina

Present at the 21 December 2009 meeting of the Yancey County Board of County Commissioners were Chairman Walter Savage, Member Jerri Storie, Member Johnny Riddle, County Manager and Assistant Clerk to the Board Nathan Bennett, County Attorney Donny Laws, Sheriff Kermit Banks, Chief Deputy Gary Banks, Emergency Management Coordinator Bill Davis, Jody Higgins, Steve Murphy, and members of the general public.

Call to Order and Approval of the Agenda

The meeting was called to order by Chairman Savage and asked for a motion to approve the agenda with the addition of an item for an update from emergency management regarding the weekend winter storm. The motion to approve as amended was made by Commissioner Riddle and the motion was seconded by Commissioner Storie. The vote to approve was unanimous. (Attachment A)

Communication to the Board from Sheriff Kermit Banks

Chairman Savage read a letter received from Sheriff Kermit Banks dated 16 December 2009 (Attachment B) concerning his retirement effective at midnight on December 31st. Chairman Savage then recognized Sheriff Banks and asked if he had anything to say. Sheriff Banks stated that he appreciated the opportunity to appear before the Board and share his appreciation in working with the Board and for the citizens of Yancey County and has enjoyed being Sheriff and the nearly 40 years that he has worked in the Sheriff's Department. The Board praised Sheriff Banks for his years of public service. The Board then recognized County Attorney Donny Laws for guidance about what is to happen now. Mr. Laws stated that North Carolina General Statute 162-5.1 sets forth the procedure for filling the vacancy that Yancey County does not have a coroner then the chief deputy will act as sheriff until the Board elects a new sheriff. Also, by North Carolina General Statute the Board, as Sheriff Banks was elected as a nominee of the Republican Party then the Board must notify the Republican Party Executive Committee about the retirement of Sheriff Banks. The Republican Party Executive Committee then has 30 days to respond back to the Board with a name that they are recommending for the position of sheriff. Mr. Laws further explained that the Board is bound by North Carolina Statute to follow the recommendation given by the Republican Party Executive Committee. Sheriff Banks acknowledged and confirmed that Mr. Gary Banks is the Chief Deputy of the Yancey County Sheriff's Department. He further confirmed that Wade Harding is the Chairman of the Yancey County Republican Party and the proper point of contact for the Yancey County Republican Party Executive Committee. This being a routine matter of consultation with the Republican Party as set down by North Carolina General Statute. Upon hearing from Mr. Laws and Sheriff Banks Chairman Savage made a motion to accept the letter to Sheriff Banks acknowledging receipt of his letter and thanking him for his service and to send a letter to Sheriff Banks containing that information (Attachment C). The motion was seconded by Commissioner Storie and the vote to approve was unanimous. Chairman Savage then made a motion to draft a letter from the Board to the Chairman of the Republican Party asking for the recommendation of the party under the seal of the Executive Committee (Attachment D). The motion was seconded by Commissioner Riddle and the vote to approve was unanimous. Sheriff Banks had one further request and that was to be able to keep his service weapon as is provided by North Carolina Statute. County Attorney Donny Laws stated that he can provide the statutory authorization to the Board. Chairman Savage then made a motion to allow Sheriff Banks to keep his service weapon, free of charge, as is provided by North Carolina Statute. The motion was seconded by Commissioner Riddle and the vote to approve was unanimous.

Emergency Management Update

The Board next heard from Emergency Management Director Bill Davis who gave an update on the situation caused by the snowstorm on Friday and Saturday. Mr. Davis reported that no shelters were open and that French Broad Electric, as of this morning, only reported 25 customers without power. Phone service is out in sporadic areas of the county. Mr. Davis further stated that US-19W was one of the hardest hit areas. Mr. Davis also reported that the

state Emergency Management Coordinator has the paperwork to designate the county a disaster area. Mr. Davis further reported that North Carolina DOT has done a fabulous job keeping the primary routes open and are working hard to get all secondary roads clear. NCDOT crews are being assisted by DOT crews from Anson County as well as private contractors. Upon hearing from Mr. Davis Commissioner Storie made a motion to approve a state of emergency declaration for Yancey County (Attachment E). The motion was seconded by Commissioner Riddle and the vote to approve was unanimous.

Chairman Savage Comments

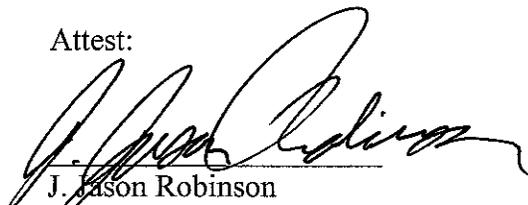
Chairman Savage extended the Board's appreciation to French Broad Electric, the North Carolina Department of Transportation, all law enforcement, and all fire departments and other emergency services for the exceptional job that they did during the snowstorm. Chairman Savage also acknowledged the death of Nancy Holcombe, the wife of local businessman Jerry Holcombe, who passed away on Saturday. Chairman Savage concluded his remarks with a wish for everyone to have a very Merry Christmas.

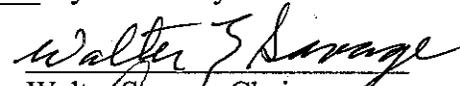
Adjourn

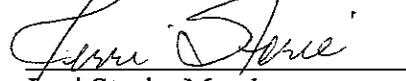
Having no further business Commissioner Storie made a motion to adjourn and it was seconded by Commissioner Riddle. The vote to adjourn was unanimous.

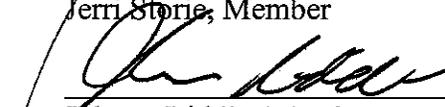
Approved and authenticated on this the 5th day of January 2010.

Attest:


J. Jason Robinson
Clerk to the Board


Walter Savage, Chairman


Jerri Storie, Member


Johnny Riddle, Member

(county seal)



Attachment A



YANCEY COUNTY

110 Town Square, Room 11 • Burnsville, North Carolina 28714
PHONE: (828) 682-3971 • FAX: (828) 682-4301

Nathan Bennett, *County Manager*

Walter Savage, *Chairman*

Jerri Storie, *Commissioner*

Johnny Riddle, *Commissioner*

AGENDA
YANCEY COUNTY COMMISSIONERS
SPECIAL MEETING
DECEMBER 21, 2009

- I. Call to Order---Chairman Savage
- II. Approval of the Agenda
- III. Communication to the Board from Sheriff Kermit Banks
- IV. Adjourn



Attachment B
OFFICE OF THE SHERIFF

COPY
PHONE (828) 682-2124 • FAX (828) 682-0070

P.O. Box 6
Burnsville, NC 28714

Kermit Banks, Sheriff

16 December 2009

Yancey County Board of Commissioners
c/o Mr. Walter Savage, Chairman
110 Town Square, Room 11
Burnsville, N.C. 28714

Certified Mail, R.R.R.

Mr. Savage, this is to submit my retirement as Sheriff of Yancey County to the Yancey County Board of Commissioners effective at midnight, 31 December 2009.

Please advise the board that because there is no coroner in Yancey County, the Chief Deputy Sheriff, with the assistance of the regular Deputy Sheriffs, will be prepared to perform the duties of my office until a replacement is elected to fill my unexpired term following the vacancy caused by my retirement.

By copy of this letter to the county executive committee chairman of the party for which I was reelected as its nominee, I am advising of my retirement in order that the county executive committee may prepare to make a recommendation and consult with the board of commissioners as provided in N.C.G.S. §162-5.1.

It has been my distinct honor to serve the citizens of Yancey County as Sheriff for so many years, and I thank them for that opportunity. I retire with great hope for the future of our county and its citizens.

Sincerely,

Kermit Banks

cc:

/ Mr. Wade Harding, Chairman
Yancey County Republican Executive Committee
384 Mountain View Drive
Burnsville, N.C. 28714



Attachment C

YANCEY COUNTY

110 Town Square, Room 11 • Burnsville, North Carolina 28714
PHONE: (828) 682-3971 • FAX: (828) 682-4301

Nathan Bennett, County Manager

Walter Savage, Chairman

Jerri Storie, Commissioner

Johnny Riddle, Commissioner

21 December 2009

The Honorable Kermit Banks
Sheriff of Yancey County
PO Box 6
Burnsville, NC 28714

RE: Retirement Notification

Dear Sheriff Banks:

In regard to the matter referenced above, please be advised that I and my fellow commissioners are in receipt of your letter of 16 December 2009 concerning your 31 December 2009 retirement.

First of all I would like to say, for both myself and on behalf of Commissioners Johnny Riddle and Jerri Storie, thank you for your many years of service and dedication to your fellow Yancey County citizens as their Sheriff. As did your father before you, you have had a long and successful tenure as Sheriff of Yancey County. We sincerely hope that as you leave your office and begin your retirement you will find the years yet to come just as rewarding for you and your family.

We would also like to thank you for the advance notice which you have given us of your retirement by your 16 December 2009 letter. This timely notice will allow the Commission to insure the statutory process provided for the election of your successor moves forward as quickly and smoothly as possible. As is provided by N.C. General Statute §162-5.1 and mentioned in your letter, the Commission notes that the duties of your office will be discharged by your Chief Deputy until such time as your successor is elected by the Board of Commissioners in the process provided by the same statute. We understand that at present Mr. Gary Banks is your Chief Deputy as you confirmed at our Board meeting this date.

We also understand your 16 December 2009 letter was copied to Mr. Wade Harding, Chairman of the Yancey County Republican Party's Executive Committee. Additionally, by letter dated today, we have also contacted Mr. Harding to make him aware of the statutory process by which your successor will be elected so that the Commission may consult with the executive committee of your party regarding their recommendation to that effect.



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Nathan Bennett, *County Manager*

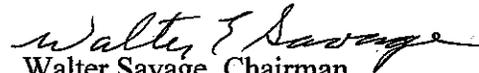
Walter Savage, *Chairman*

Jerri Storie, *Commissioner*

Johnny Riddle, *Commissioner*

In closing, we would like to thank you again for your years of service as Yancey County's Sheriff. My fellow commissioners and I look forward to honoring you and your tenure in office in a more formal manner in the very near future.

Sincerely,


Walter Savage, Chairman
Yancey County Commissioners

CC: Commissioners Riddle and Storie
Jason Robinson, Clerk to the Board
Nathan Bennett, County Manager

WS/nrb



Attachment D

Nathan Bennett, County Manager

Walter Savage, Chairman

Jerri Storie, Commissioner

Johnny Riddle, Commissioner

YANCEY COUNTY

110 Town Square, Room 11 • Burnsville, North Carolina 28714
PHONE: (828) 682-3971 • FAX: (828) 682-4301

21 December 2009

Mr. Wade Harding, Chairman
Yancey County Republican Party
Executive Committee
384 Mountain View Drive
Burnsville, NC 28714

RE: Retirement of Sheriff Kermit Banks

Sent via Certified Mail

Dear Mr. Harding:

In regard to the matter referenced above, please be advised that my fellow county commissioners and I have been advised by Sheriff Kermit Banks by letter dated 16 December 2009 of his retirement as Sheriff of Yancey County. The Sheriff advises his retirement is effective at midnight 31 December 2009. We note also that the sheriff's letter was copied to you in your capacity as chairman of the Republican Party as well.

N.C. General Statute §162-5.1 requires that the Yancey County Board of County Commissioners consult with your party's executive committee regarding its recommendation of Sheriff Banks' successor in office. For your reference we enclose along with this letter a copy of the statute. As is by law provided, if your committee so chooses, they may recommend to our board a replacement for the retiring sheriff within thirty days of the vacancy of his office. Upon receipt of such recommendation, I and my fellow commissioners shall elect that recommended candidate to fill the remainder of the sheriff's term as provided by state law.

As such we would request that should your committee choose to recommend a successor for Sheriff Banks within the statutory time allowed, please deliver to Yancey County Manager Nathan Bennett a copy of a signed resolution adopted by the Executive Committee of the Yancey County Republican Party, and attested by the party's secretary, stating the name of the recommended candidate. Upon the receipt of such recommendation, the Yancey County Board of County Commissioners shall proceed to elect such candidate to the office of Sheriff of Yancey County at the board's next meeting. For your reference, the first meeting of our board following Sheriff Banks' vacancy in office will be on 5 January 2009.



YANCEY COUNTY

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Nathan Bennett, *County Manager*

Walter Savage, *Chairman*

Jerri Storie, *Commissioner*

Johnny Riddle, *Commissioner*

Should there be any questions at all please feel free to contact us directly by letter or through the manager's office. We look forward to your consultation in this matter as is by law provided.

Sincerely,

Walter Savage
Walter Savage, Chairman
Yancey County Commissioners

CC: Commissioners Riddle and Storie
Jason Robinson, Clerk to the Board
Nathan Bennett, County Manager

Enclosure

WS/nrb

Attachment E

PROCLAMATION OF A COUNTY STATE OF EMERGENCY



YANCEY COUNTY

1. Pursuant to the Yancey County State of Emergency Ordinance and Chapter 166A of the North Carolina General Statutes and Article 36A, Chapter 14 of the North Carolina General Statutes, I have determined that a State of Emergency as defined in the Yancey County State of Emergency Ordinance, exists in the County of Yancey because of damage occurring from **WINTER STORM DECEMBER 2009**.
2. I, therefore, proclaim the existence of a State of Emergency in the County of Yancey.
3. I hereby order all county law enforcement officers, county employees and all other Emergency Management personnel subject to my control to cooperate in the enforcement and implementation of provisions of the County Emergency Ordinance which are set forth below.
4. **Execution of Emergency Plan.** All civilians and Emergency Management personnel are ordered to comply with the Emergency Plan.
5. This proclamation shall become effective immediately.

Proclaimed this the **18th** day of **December 2009**, at **10:00 (a.m.)**.
Adopted this 21st day of December 2009.


CHAIRMAN, YANCEY COUNTY
BOARD OF COMMISSIONERS

